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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,918	06/26/2003	Fred S. Cook	2182(16166)	5738
33272 7590 05/14/2008 SPRINT COMMUNICATIONS COMPANY L.P. 6391 SPRINT PARKWAY MAILSTOP: KSOPHT0101-Z2100 OVERLAND PARK, KS 66251-2100				
EXAMINER				
FORD, GRANT M				
ART UNIT		PAPER NUMBER		
2141				
MAIL DATE		DELIVERY MODE		
05/14/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No. 10/606,918	Applicant(s) COOK, FRED S.
Examiner GRANT FORD	Art Unit 2141

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 April 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Andrew Caldwell/
Supervisory Patent Examiner, Art Unit 2142

Continuation of 11, does NOT place the application in condition for allowance because: With respect to applicant's arguments addressing point (A) in the Office Action dated 3/25/2008, Applicant argued that the routers of Rawlins do not perform processing that meets the requirements of independent claim 1. Applicant argued that since the routers of Rawlins fail to operate on the data within the packet, there is no "processing operation" as defined in the claims. The Examiner notes that there is no definition or description in independent claim 1 that a "processing operation" is performed on data within a packet. As such, Applicant's argument is not found to be persuasive. Applicant next argued that processing performed by a router to forward a packet does not utilize resources in the router which are addressable or identifiable to users in the network so that they can be allocated for any other user. The Examiner notes that there is no claimed limitation in independent claim 1 pertaining to the specific addressing or identification of resources directly to a user. Rather, "processing operations" are defined by independent claim 1 as being accessible by respective network traffic paths. As such, Applicant's argument is not found to be persuasive.

With respect to Applicant's response directed to point (B) in the Office Action dated 3/25/2008, Applicant's arguments substantially point back to comments with respect to point (A), as addressed above.

With respect to Applicant's response directed to point (C) in the Office Action dated 3/25/2008, Applicant argued that the claims recite "representing a pool of said virtual processing elements using a resource aggregator". The Examiner notes that applicant's citation fails to claim "pooling sets of resources prior to a user request", as outlined in point (C) of the Office Action dated 3/25/2008. There is no specific mention of user requests in instant claims 1 and 3-4, as argued.

With respect to Applicant's response directed to point (D) of the Office Action dated 3/25/2008, Applicant argued that the limitations "pool includes composite resource sets combining said respective processing operations to implement a predetermined composite service" and "respective processing operations within a composite resource set are characterized by predetermined interactions for integrating said processing operations into a service function" in claims 3 and 4 provide basis for the argued feature of a service function being assembled from processing operations that provide data processing transactions. Rawlins discloses Diffserv/Intserv classification, mapping, and queuing of data packets based upon virtual pool bandwidth capacity for the establishment and application of service levels across disparate networks utilizing multiple component types (Rawlins, Col 9 lines 8-19 and 44-63, Col. 10 lines 12-46, Col. 11 line 55 through Col 12 line 34).